



REPUBLIC OF KENYA



**KENYA LAW**  
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**Mwangi v Republic (Criminal Application E177 of 2024)  
[2024] KECA 1746 (KLR) (4 December 2024) (Ruling)**

Neutral citation: [2024] KECA 1746 (KLR)

**REPUBLIC OF KENYA  
IN THE COURT OF APPEAL AT NAKURU  
CRIMINAL APPLICATION E177 OF 2024  
MA WARSAME, JA  
DECEMBER 4, 2024**

**BETWEEN**

**JAMES NJUGUNA MWANGI ..... APPLICANT**

**AND**

**REPUBLIC ..... RESPONDENT**

*(An application for extension of time to file a notice of appeal, against the judgment of the High Court at Nyahururu (Wendoh, J.) dated 19th January 2018, In HC)*

**RULING**

1. By an undated Notice of Motion filed in person, the applicant, (James Njuguna Mwangi) has moved this Court seeking an order or extension of time to enable him file an appeal out of time. The intended appeal is against the judgment of Wendoh, J. delivered on 19<sup>th</sup> January 2018 which upheld his sentence of life imprisonment for defilement contrary to Section 8(1) as read with Section 8(2) of the [Sexual Offences Act](#).
2. In his supporting affidavit, the applicant proffers that the reason for the delay in filing the notice of appeal is that his family promised to hire him a lawyer to file the appeal, but they were unable to fundraise for a lawyer owing to the high legal fees.
3. The respondent is not opposed to the application and contends that though the delay is inordinate, the sentence meted out is lengthy and consequently the application should be allowed.
4. In determining the matter, I am guided by this Court's sentiments in [Andrew Kiplagat Chemaringo vs. Paul Kipkorir Kibet](#) [2018] eKLR, where it was held that:

“the law does not set out any minimum or maximum period of delay. All it states is that any delay should be satisfactorily explained. A plausible and satisfactory explanation for the



delay is the key that unlocks the court's flow of discretionary favour. There has to be valid and clear reasons, upon which discretion can be favourably exercisable.”

5. Having considered the length of the delay and the reason advanced to explain it, I am not satisfied that there is a satisfactory reason for the inordinate delay of almost six years. There is no requirement for a convicted person to expend funds to file a notice appeal. He only requires to file a notice of appeal within fourteen days using forms freely supplied by the Prison, after which the High Court Registry prepares the record of appeal.
6. Having found the delay inordinate and the applicant's explanation unpersuasive, I decline to exercise my discretion in favour of the applicant and dismiss the application.

**DATED AND DELIVERED AT NAKURU THIS 4TH DAY OF DECEMBER, 2024.**

**M. WARSAME**

.....

**JUDGE OF APPEAL**

I certify that this is a true copy of the original.

Signed

**DEPUTY REGISTRAR**

